

# **SEWAGE HANDLING AND DISPOSAL APPEAL REVIEW BOARD**

**April 1, 2009**

**FINAL**

**Minutes**

The Sewage Handling and Disposal Appeal Review Board (the "Board") met at 9:00 am on April 1, 2009, in the Main Conference Room of the Madison Building, 109 Governor Street, Richmond, Virginia. Board members present were Mr. Steven Thomas (Chairperson), Ms. Jeanne Hockaday, Mr. Danny Hatch, Ms. Amy Pemberton, Mr. Ronnie Thomas and Mr. Peter Brooks. Assistant Attorney General Ishneila Moore, Counsel to the Board, Assistant Attorney General Karri Atwood, Counsel to the Health Department and Patty Britton, Acting Secretary to the Board, also attended.

The meeting was called to order at 9:06 am, by the Chairman, Mr. Thomas. The roll call was made and a quorum was declared with 6 members present. Mr. Thomas called the meeting to order and then proceeded through the standard docket script. Three appeals were scheduled on the docket for consideration by the Board.

The first appeal heard before the Board was the case of Mr. George Alcaraz, with property located at 1500 Back Bay Landing Road, Virginia Beach. The hearing opened with introductions of Board, staff, and participants. Daniel "Duke" Price represented the Department. Mr. Alcaraz represented himself. Witnesses were sworn in by the court reporter. Exhibits were presented to the Board by both parties.

Both Mr. Alcaraz and Mr. Price presented their opening statements and case to the Board. Mr. Bob Willoughby, Mr. Dan Horne, Mr. Erik Severson, and Mr. Brad Delashmutt were questioned as witnesses.

Closing statements and findings of fact were presented by both parties.

After hearing the presentations and evidence in the appeal, at 11:21 am, Ms. Jeanne Hockaday moved that the Board go into closed session pursuant to Section 2.2-3711.A.7 of the *Code of Virginia* for consultation with legal counsel pertaining to actual or probable litigations, and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by counsel. Mr. Ronnie Thomas seconded the motion. The motion carried unanimously.

Upon reconvening the hearings at 11:45 am, Ms. Amy Pemberton moved that the Board end its closed session and certify that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from opening meeting requirements by Virginia law were discussed in the closed session to which this certification applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Board. Mr. Danny Hatch seconded the motion. A vote was taken and the motion carried unanimously.

Mr. Peter Brooks moved to uphold the ruling of the Health Department to deny the permit. Mr. Ronnie Thomas seconded the motion.

Mr. Hatch and Mr. Steve Thomas discussed the decision and advised Mr. Alcaraz that he did have other possible options that he could pursue with the local Health Department in order to obtain a permit for the lot. They also commended him on his businesses actions in support of low income housing.

A vote was taken and the motion passed 6-0 in favor. The motion carried.

The Board adjourned for lunch at 11:50 am.

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The Board returned following lunch for the afternoon session at 1:06 pm. All six members of the Board returned for the afternoon session.

The second appeal heard before the Board was the case of Mrs. Benzena Eaves, with property located at 2156 Wake Forest Road, Blacksburg, VA. The hearing opened with introductions of Board, staff, and participants. Daniel “Duke” Price represented the Department. Mrs. Eaves represented herself. Witnesses were sworn in by the court reporter. Exhibits were presented to the Board by both parties.

Both Mrs. Eaves and Mr. Price presented their opening statements and case to the Board. Mr. Henry Eaves and Mr. Greg Corell were questioned as witnesses.

Closing statements and findings of fact were presented by both parties.

After hearing the presentations and evidence in the appeal, at 2:28 pm, Ms. Amy Pemberton moved that the Board go into closed session pursuant to Section 2.2-3711.A.7 of the *Code of Virginia* for consultation with legal counsel pertaining to actual or probable litigations, and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by counsel. Mr. Danny Hatch seconded the motion. The motion carried unanimously.

Upon reconvening the hearings at 2:48 pm, Mr. Peter Brooks moved that the Board end its closed session and certify that, to the best of each member’s knowledge, (i) only public business matters lawfully exempted from opening meeting requirements by Virginia law were discussed in the closed session to which this certification applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Board. Mr. Danny Hatch seconded the motion. A vote was taken and the motion carried unanimously.

Mr. Danny Hatch moved to indemnify Mrs. Eaves in the amount of \$1750.48 for replacement of her pump. Mr. Ronnie Thomas seconded the motion.

Several members of the Board discussed the decision and advised that had a second inspection been completed after installation of the electrical portions of the system, that the incorrect installation may have been caught.

A vote was taken and the motion passed 6-0 in favor. The motion carried.

This hearing was concluded at 2:52 pm. The Board took a short 10-minute break before starting the next case.

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The Board returned following the short break at 3:04 pm. All six members of the Board returned for the evening session.

The third appeal heard before the Board was the case of Mr. Bruce Claiborne, with property described as Tax Map #81-A-26A, HDID # 033-08-0075-SWP and 033-08-221-SWR, in Caroline County, VA. The hearing opened with introductions of Board, staff, and participants. Daniel “Duke” Price represented the

Department. Mr. Jason Greenwood represented Mr. Claiborne. Witnesses were sworn in by the court reporter. Exhibits were presented to the Board by both parties.

Both Mr. Greenwood and Mr. Price presented their opening statements and case to the Board. Mr. Bill Perry, Mr. Rodney Whitaker, Mr. Erik Severson, Ms. Shirlea Pemberton, and Ms. Julie Moore were questioned as witnesses.

Closing statements and findings of fact were presented by both parties.

After hearing the presentations and evidence in the appeal, at 7:40 pm, Mr. Ronnie Thomas moved that the Board go into closed session pursuant to Section 2.2-3711.A.7 of the *Code of Virginia* for consultation with legal counsel pertaining to actual or probable litigations, and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by counsel. Ms. Amy Pemberton seconded the motion. The motion carried unanimously.

Upon reconvening the hearings at 8:20 pm, Ms. Jeanne Hockaday moved that the Board end its closed session and certify that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from opening meeting requirements by Virginia law were discussed in the closed session to which this certification applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Board. Mr. Danny Hatch seconded the motion. A vote was taken and the motion carried unanimously.

Mr. Danny Hatch moved to uphold the ruling of the Health Department to deny the permit. Ms. Amy Pemberton seconded the motion.

Several members of the Board discussed the decision and advised that he did have other possible options that he could pursue with the local Health Department in order to obtain a permit for the lot.

A vote was taken and the motion passed 5-1 in favor. The motion carried.

This hearing was concluded at 8:24 pm.

Patty Britton  
Acting Secretary to the Board

c: Ishneila Moore, Assistant Attorney General & Board Counsel  
Steve Thomas  
Robert W. Hicks  
Duke Price  
Karri Atwood, VDH Counsel